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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,989	01/15/2002	Eric K. Mann	P 276927 P12814	2723

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EXAMINER

KIM, HAROLD J

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,989

Applicant(s)

ERIC ET AL.

Examiner

Harold Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 21-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/15/02 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-20 and 25-32 are presented for examination.
2. Applicant's election with traverse of claims 1-20 and 25-32 in Paper No. 4 is acknowledged. The traversal is on the ground(s) that all of the claims can be examined together without undue burden and all claims are directed to optimizing ingress processing via traffic classification and grouping. This is not found persuasive because Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination(s) II and III is/are different embodiment(s) separately usable from the combination of invention I. The subcombination of Invention II has separate utility such as a transfer scheduler. The subcombination of Invention III has separate utility such as a notification handler.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search for invention I is not required for invention II or III, restriction for examination purpose as indicated is proper.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 21-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claims 21-24, there being no allowable

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generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 4, 5, 7, 8, 18, and 25-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Melaragni et al., US Patent no. 6,633,576.

6. In re claim 1, Melaragni et al. shows a method, comprising:

receiving a plurality of packets [52, 54, fig 3];

classifying the packets according to a classification criterion [col 2, lines 59-60;

54, fig 3];

sending a packet bundle to a host wherein the packet bundle is generated using packets that are uniformly classified with respect to the classification criterion [56, 58, fig 3]; and

receiving the packet bundle and the corresponding packet bundle descriptor [56, 58, fig 3]; and

processing the packet bundle according to the corresponding packet bundle descriptor [58, fig 3].

7. In re claim 2, Melaragni et al. shows determining the packet bundle for transfer according to a pre-determined criterion [54, 56, col 2, lines 59-610];

generating the packet bundle and its corresponding packet bundle descriptor [54, fig 3]; and

transferring the packet bundle and its corresponding packet bundle descriptor to the host [56, 58, fig 3].

8. Claims 4-5, 7, 8, 18, and 25-30 are rejected under the same rationale as discussed above in claims 1 and 2.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 3, 6, 9, 10, 13, 14, 15, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melaragni et al., US Patent no. 6,633,576, as shown in above, in view of Kujoory et al., US Patent no. 6,021,263.

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12. In re claim 3, 6, 9, 10, 13, 14, 15, 31 and 32, Melaragni et al. shows the packet bundle descriptor includes a bundle descriptor providing information about the packet bundle and at least one packet descriptor each of which provides information about a packet in the packet bundle [54, fig 3]. Melaragni et al. does not show a session number and a priority associated with a packet. However, Kujoory et al. shows packets are classified based on their session [col 3, lines 32-33] and transfer according to a priority [flow specification, col 3, lines 35-36]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include packets are classified based on their session and transfer according to a priority as shown in Kujoory et al. for the purpose of faster data communication.

Allowable Subject Matter

13. Claims 11, 12, 16, 17, 19, 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Further references of interest are cited on Form PLO-892, which is attachment to this office action.

Any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The centralized fax number is 703 872-9306.

The centralized hand carry paper drop off location is:

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03

Any inquiry of a general nature or relating to the status of this application should be directed to the technology center receptionist whose telephone number is (703) 306-5631.

Direct any inquiries concerning drawing review to the Drawing Review Branch (703) 305-8404.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold Kim whose telephone number is 703-305-1948. The examiner can normally be reached on Monday-Thursday 6AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 703-308-3301. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HK

Harold J. Kim
Patent Examiner
May 3, 2004/HK


JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100